

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

TUESDAY THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

: PRESENT:

THE HON'BLE MRS. JUSTICE: **BILAL NAZKI**

AND

THE HON'BLE MR. JUSTICE: **CH.S.R.K. PRASAD**

CRIMINAL APPEAL No. 1123 OF 2002

(Criminal Appeal filed under Section 374 (2), of Cr.P.C. against the judgment and order of the Court of the III Additional Sessions Judge, Karimnagar and passed in S.C. No. 933 of 2001 dated: 27-09-2002)

Between:

Kapati Venkateswara Rao, S/o. Narasaiah, Native of Kanoor Village of Vijayawada.

Appellant
(Accused)

AND

1. The State of A.P., rep. by P.P.
2. A.V.L. Narayana, S/o. Veeraswamy, R/o. 74-12-126-2, Electricity Employees Colony, Block No. 55, Patamata, Vijayawada.

Note: As per Court Order dated: 10/02/2003 in Crl. MP. No. 964 of 2003 to impleade R2 and to Assist P.P.

Respondent

The Criminal Appeal coming on for hearing, upon perusing the petition and Memo of Grounds filed herein and upon hearing the arguments of Mr. C. Praveen Kumar, Advocate for the appellant and **the Public Prosecutor, for the** Respondent No. 1, the Court made the following

ORDER:

“While hearing the matter, we have come across a diary-Ex. P17, which is allegedly a diary written and maintained by the deceased. In one of the dying declarations, there is a reference to this diary also. This diary had been sent to a handwriting expert, who had also submitted a report-Ex. P14. But the expert has not been examined.

We feel that in the interest of justice, it would be fair to the prosecution as well as to the defence to summon the expert as a witness. Therefore, we remand the case back to the trial court for recording the statement of the expert, who gave the opinion, Ex. P14.

After the examination of the witness, the record shall be transmitted back immediately. The whole exercise shall be completed within one month from the date of receipt of the copy of this order by the trial Court. While examining the expert, the Trial Court shall ensure the presence of the accused as well as his counsel. After the evidence of the expert is recorded, the accused shall also be examined under Section 313 Cr.P.C. with respect to any incriminating statement made by the expert. Record be also transmitted”.

SD/-MD. RIYAZ AHMED
ASSISTANT REGISTRAR

// TRUE COPY //

For ASSISTANT REGISTRAR

To

1. The III Additional Sessions Judge, Karimnagar, Karimnagar District.
2. A.V.L. Narayana, S/o. Veeraswamy, R/o. 74-12-126-2, Electricity Employees Colony, Block No. 55, Patamata, Vijayawada.
3. The Section Officer, V.R. Section, High Court of A.P., Hyderabad.
4. Two CCs to the Public Prosecutor, High Court of A.P., Hyderabad.
(SPECIAL MESSENGER with a copy of petition and memo of grounds)
5. The Section Officer, Criminal Section, High Court of A.P., Hyderabad.
6. One spare copy.

Ksv

HIGH COURT

**BNJ
&
CHSRKPJ**

DATE: 07-12-2004

ORDER

CRL.A. No. 1123 OF 2002

DIRECTION